

REMARKS

The Office Action dated October 4, 2007 has been received and carefully noted. The following remarks are submitted as a full and complete response thereto.

Claims 1-25 are currently pending in this application. A declaration under 37 C.F.R. 1.131 is attached. Applicants gratefully acknowledge the indication that claims 8-24 are allowed. Claims 1-7 and 25 are respectfully submitted for consideration.

The Office Action rejected claims 1-7 and 25 under 35 U.S.C. 102(a) as being anticipated by the publication "Performance Evaluation of Common Radio Resource Management (CRRM) to Tolli et al. (*Tolli*). This rejection is respectfully traversed because *Tolli* is not prior art to the present application.

Applicants respectfully submit that the priority date of the present application is November 8, 2002. The publication date for *Tolli* is November 2002 and does not state the specific date in November on which *Tolli* was published. However, according to US patent case law, if the date of invention or publication of a reference does not state the day of the month, it is assumed to be the last day of the month. Oka v. Youssefyeh, 849 F.2d 581, 584, 7 USPQ2d 1169, 1172 (Fed. Cir. 1988).

Thus, since publication date states that if *Tolli* does not state which day in November was the date of publication, it is assumed to be November 30, 2002, which is after the priority date of the present application. Thus, *Tolli* is not prior art against the

present application. Accordingly, withdrawal of the rejection under 35 U.S.C. 102(a) is respectfully requested.

Applicants further submit that *Tolli* is not available as prior art under 35 U.S.C. 102(a) because the inventor of the present application authored the substantive portions of *Tolli*. A declaration under 37 C.F.R. 1.131 is attached that declares that Mr. Antti Tolli, inventor of the present application, authored the subject matter of *Tolli* relied upon in the Office Action to reject claims 1-7 and 25. Thus, *Tolli* is not authored by "another" as required under 35 U.S.C. 102(a). Accordingly, withdrawal of the rejection under 35 U.S.C. 102(a) is respectfully requested.

Based on the above, Applicants respectfully submit that each of claims 1-7 and 25 are in condition for allowance. Accordingly, it is respectfully requested that each of claims 1-7 and 25 be allowed, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'DEB', is written over a horizontal line.

David E. Brown
Registration No. 51,091

Customer No. 32294
SQUIRE, SANDERS & DEMPSEY LLP
8000 Towers Crescent Drive, 14TH Floor
Tysons Corner, Virginia 22182-2700
Telephone: 703-720-7800; Fax: 703-720-7802

DEB:jkm:dlh

Enclosure: Declaration Under 37 CFR §1.131